

EX PARTE OR LATE FILED

BERGMAN BROADCASTING CO., INC.

CLOVIS HWY • PO BOX 886 • PORTALES, NM 88130
505-359-1759 FAX: 505-359-0724

March 20, 1999

RECEIVED

MAR 30 1999

The Honorable Susan Ness, Commissioner
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

Federal Communications Commission
Office of Secretary

MM99-25

Dear Commissioner Ness:

My name is Sandi Usrey Bergman. I serve as President and General Manager of Bergman Broadcasting Co., Inc. dba KSEL AM/FM, Portales, New Mexico and RICKochet Communications, Inc. dba KSMX FM, Clovis, New Mexico. My husband and I co-own KSEL AM/FM, and I am the majority owner in KSMX FM. My husband is a full-time teacher at Portales High School. Therefore, I am solely responsible for day to day operations concerning our stations. I know that FCC commissioners and staff are concerned about the total number of minority broadcast owners, and I am proud to say that yes, I am a minority owner. Now, I have a story to tell you.

On August 27, 1997 I wrote to FCC Denver Field Office Division Director Leo Cirbo to notify him that a "pirate" station was on the air on the expanded AM band at 1650. The station has sold advertising time since its inception. We have heard Clovis and Portales restaurants, auto dealerships, furniture companies, television and appliance retailers, grocery stores and financial institutions advertise on the station. I frankly cannot imagine the amount of business this illegal station has "cost" us over the past year and a half.

I really became irate one day last October (prior to elections). I had driven up to our facility, and while I was parked in the parking lot, I changed radio stations to 1650 AM, our local "pirate". I heard a stop set with ten commercials in it. I heard an advertisement for a sheriff's candidate. Following that was an advertisement for a probate judges candidate. And finally, I heard an advertiser who had discontinued his advertising with us just about the same time that the pirate "fired up." And would you believe that "KTAL" is still on the air today? I think it's pretty unbelievable myself.

In the meantime, I have been paying my regulatory fees, and I have certainly complied with the issuance requiring stations to purchase the new Emergency Alerting System equipment that incidentally was not "cheap". Altogether, the EAS system and installation probably cost around \$4,000. I presume there is a misconception on behalf of FCC decision-makers and perhaps some of those in congress that the majority of broadcasters are either owned by large conglomerates and/or that we are making money "hands over fists". What a misconception! We invite you to come out to New Mexico and meet a cross-section of those of us in this business. I can assure you, it takes a lot of our working capital just to maintain a "legal" operation. Mark and I go to great lengths to do things the "right" way, and I believe you can refer to the last FCC inspection of our facility (January 1995). We received an "Excellence" rating.

RETRO

KSEL
COUNTRY
85.3 FM

KSEL

No. of Copies rec'd
List ABCDE

7

Commissioner Ness
March 20, 1999
Page Two

One of my greatest concerns regarding micro radio is this: Taking into consideration the fact that FCC staffs and budgets (in field offices) have been greatly reduced in the last few years, and that this Portales, New Mexico "pirate" radio station has continued to function to this day, HOW WILL THE FCC POSSIBLY BE ABLE TO OVERSEE THE MULTITUDE OF INTERFERENCE PROBLEMS THAT WILL OCCUR WITH THE ADVENT OF MICRO RADIO?

It seems to me that before the FCC allows more stations to be added that it should first take care of the agency's primary and foremost duty -- and that is to better effectively police the airwaves as they presently exist.

Here are some additional "bones of contention" I have with the possible creation of the new FM service:

1. How are you going to "insure" that minorities actually receive these licenses? Allocating licenses to a favored group is in direct conflict with the Telecom Act of 1996 and the Balanced Budget Act of 1997. The last thing that I heard is that the FCC plans to auction the new spectrum. Auctions only guarantee that the person(s) with the most capital will receive the license, and you and I both know that minorities will not have the upper hand if this is the case. And then, the FCC will discriminate against current broadcasters including myself by not allowing us to purchase any of the low power licenses.
2. As I have read in the joint Kinnard/Trinstani statement in support of micro radio, I understand the commissioners to say that micro radio is an answer to consolidation. Micro radio in big markets, where consolidation exists, will do one thing only. It will cause a "boatload" of interference problems. There is no spectrum left in the big markets. If the staff members in our country's FCC field offices think they receive many broadcast interference-related complaints now -- then, get ready! It seems to me that the FCC needs to conduct much more rigorous studies into the technical merits of micro radio, especially as it relates to the crowded spectrum in the larger markets.
3. What will micro radio do to medium and small markets where there is little to no consolidation? The answer is simple. It will help to rid this country of all the truly "local" owners like myself. I spoke with several minority owners at the NAB Leadership Conference last week about the topic. They feel like I do. We don't mind competition. WE JUST LIKE LEVEL PLAYING FIELDS. I have gone into substantial personal debt to get into this business (including an SBA minority loan to acquire KSMX), say, to the tune of \$600,000+. Isn't it great and wonderful that folks will be able to cover the City of Portales quite effortlessly with an LPFM1000 for a total investment of less than \$25,000? Then, those same low power licensees can sell advertising in direct competition with us. I know. The FCC does not want us to talk about economics. I can assure you, this IS ABOUT ECONOMICS, and I take this initiative VERY PERSONALLY. The whole notion of micro radio makes me nauseated to the point that I am ready to "sell out" to a group owner. I would suspect there are many other owners/operators who feel as I do.

Commissioner Ness
March 20, 1999
Page Three

4. Now, when micro stations go into effect and the small and medium market stations start feeling the "pinch" economically, what happens next? In my case, I will not have the time to spend on public service programming and production. I will not be able to do all of the volunteer activities I am involved with. Why? Because I will have to reduce my staff and I will personally have to focus the majority of my time and attention to sales. Yes, this is an ECONOMIC ISSUE which will affect all broadcaster's ability to continue to do EFFECTIVE PUBLIC SERVICE. Incidentally, I added up the amount of public service time Bergman Broadcasting/RICKochet Communications aired in 1998. *Between our three stations, we aired more than \$300,000 in public service announcements/programs - and that is a conservative estimate.*
5. In case you haven't heard, radio is moving very quickly into the new millennium. Our industry is in the process of developing in-band/on channel (IBOC) digital service. The relaxed interference standards that go along with the micro radio proposal may very seriously impact our industry's technical ability to develop IBOC.

There are clearly some very profound and serious problems with the micro radio initiative. I beg you, please look at the big picture. This proposal is not the answer to consolidation. If anything, the broadcasters who will be most affected (in a negative way) are those of us in the small to medium markets.

So, you might ask, how was I able to get into this business? I am proud to say that my father, who had a 6th grade education and grew up in a family of migrant farm workers, lived the American Dream. He eventually became a self-employed water-well driller. My mother was a schoolteacher. There was not a "pot" of money for me when I wanted to do this business thing. My dad let Mark and me mortgage his home and borrow my mom's small annuity to pay the down payment on KSEL AM/FM, and the previous owner carried the papers at an affordable interest rate. With God's grace and lots of hard work and tenacity, we have been able to repay those particular debts. And, as I explained to you earlier, we acquired KSMX with an SBA loan. Incidentally, I was nominated by one of my bankers for "Small Business Person of the Year" for the State of New Mexico, and was named a finalist.

We're proud of what we have accomplished here. Please, don't pull the rug out from under our feet.

Sincerely,



Sandi Usrey Bergman
President/General Manager
Bergman Broadcasting Company, Inc.
RICKochet Communications, Inc.

cc: Bill McConnell

RECEIVED

MAR 30 1999

RECEIVED

OFFICE OF
COMMISSIONER
SHARON NESS

Federal Communications Commission
Office of Secretary

EX PARTE OR LATE FILED

MAR 29 2 17 PM '99

MM99-25

March 15, 1999

Susan Ness
Federal Communications Commission
1919 M Street N.W.
Washington D.C. 20554

Dear Susan Ness:

I am writing to let you know that as a citizen and a voter of this country, I am in full support of the FCC's proposal to grant licenses to low-power FM stations. I realize that we live in a society where commerce is the backbone of our society. That is no more evident than in the radio business, as a few conglomerates currently run most of the local stations. I do not want to impede their competitiveness but rather create a new venue for small community-based stations to forge their own path. This cannot happen unless you support this idea.

As a person who has influence on this issue, I ask that you act on this as soon as possible. Many communities need their own voice and regardless of their opinions, right or wrong, there needs to be a guarantee that they be heard. Not only that but new broadcast ownership opportunities will arise. This needs to be reserved for community-based owners. I realize that this will mean disapproval from many of those entertainment companies, and I'm positive they have already let you know of this. Please be attentive though to the needs of the community and start granting licenses to low-power stations.

Thank you very much for your time and I look forward to hearing of your decision.

Sincerely,



Arturo Acosta III

No. of Copies rec'd
List ABCDE

0

EX PARTE OR LATE FILED

RECEIVED
OFFICE OF
COMMISSIONER
20554-113

RECEIVED

MAR 30 1999

MAR 29 2 21 PM '99

Federal Communications Commission
Office of Secretary

MM 99-25

March 25, 1999

Susan Ness
Federal Communications Commission
1919 M Street NW
Washington, DC 20554

Dear Commissioner Ness:

I am writing to you to request your support of the proposed new Low Power FM (LPFM) Service.

In the past 20 years, we have witnessed the all but total demise of the locally-owned, local news driven media. Instead, we are subjected to a "one-size fits all" approach dictated by the bottom-line where if you don't like what your absentee owners are serving, you're obviously the one who is wrong.

Let's put control of the programming and content back closer to those who listened to local FM radio. Let's let those here in Denver have a voice in what happens in this market. Let's put creativity back into local radio and help create some new stars.

I urge you to give your support to Chairman William Kennard. Let him know that the American people are asking for a voice in their communities.

Thank you for your help.

Sincerely,



Richard L. Korth

No. of Copies rec'd
List ABCDE

0